

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DENNY DEJESUS,

Plaintiff,

v.

CORRECTIONS OFFICER R. MALLOY,

Defendant.

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**STIPULATION AND  
ORDER OF SETTLEMENT**  
6:16-CV-06470 EAW

**STIPULATION AND ORDER**

**WHEREAS**, Plaintiff, DENNY DEJESUS (hereinafter "Plaintiff"), filed the instant action alleging that Defendant violated his constitutional, statutory and/or civil rights during his incarceration in the New York State Correctional Services system; and

**WHEREAS**, the parties are interested in resolving the issues alleged in the complaint in this action, and have negotiated in good faith for that purpose; and

**WHEREAS**, none of the parties to the above-captioned action is an infant or incompetent person; and

**WHEREAS**, the parties are all represented by counsel;

**IT IS HEREBY STIPULATED AND AGREED** by and between the parties and/or their respective counsel as follows:

1. The parties hereby agree that the hereinabove captioned action and all claims asserted therein are dismissed and discontinued with prejudice pursuant to Rule 41(a)(A)(ii) of the Federal Rules of Civil Procedure and without payments, attorneys' fees, costs, disbursements, or expenses in excess of the amount specified in Paragraph 2 below.
2. Any and all of the claims, actions or lawsuits by Plaintiff, as against all Defendants, former Defendants or any other employee or assigns of the New York State Department of Corrections and Community Supervision ("DOCCS"), or against DOCCS itself, are hereby settled for the sum of sixty thousand (\$60,000) dollars, in full satisfaction of all claims for damages, costs, disbursements and legal fees in this court and in any other court.
3. Nothing in this So-Ordered Stipulation of Settlement shall be construed as an admission or concession of liability whatsoever by the Defendant or any of the former Defendants or DOCCS regarding any of the allegations made by the Plaintiff in his Complaint in the above-captioned action, including but not limited to claims that the Plaintiff's rights under the Federal or New York State Constitutions or Statutes had been violated and all other claims set forth in the Complaint.

4. In payment of this settlement, the amount of \$60,000 shall be delivered to Jeremy Sher, Esq., attorney for Plaintiff, at the address listed below. Pursuant to New York State law, these payments shall be made within one hundred and twenty (120) days of the receipt of the fully executed and entered so-ordered stipulation by the Court by counsel for Defendant. These payments are subject to the approval of all appropriate New York State officials in accordance with provisions for indemnification under New York Public Officers Law Section 17. In the event these payments are not made within the one hundred and twenty (120) day period, interest shall begin to accrue at the rate set forth in 28 U.S.C. § 1961 beginning on the one hundred and twenty first (121<sup>st</sup>) day after the electronic filing of this fully executed stipulation, so-ordered by the Court.
5. This Stipulation of Settlement and any Order entered thereon shall have no precedential value or effect whatsoever and shall not be admissible in any other action or proceeding as evidence or for any other purpose except in an action or proceeding to enforce this Stipulation of Settlement.
6. Nothing contained herein constitutes a waiver by Defendant, former Defendants, DOCCS, New York State or any of their agencies, employees or assigns of any rights held pursuant to

federal and state law or by contract in any other proceedings not subject to this Settlement Order.

7. This Stipulation and Order of Settlement embodies the entire agreement of the parties in this manner.

Dated: Rochester, New York  
March 23, 2022

BOND,SCHOENECK & KING, PLLC  
Attorneys for Plaintiff

s/ Jeremy Sher, Esq.  
Jeremy Sher, Esq.  
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Dated: Rochester, New York  
March 23, 2022

LETITIA JAMES  
Attorney General of the State of New York  
Attorney for Defendant

s/ Hillel Deutsch  
Hillel Deutsch, Esq.  
Assistant Attorney General of  
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SO ORDERED:

Dated: March 24, 2022

  
Hon. Elizabeth A Wolford  
United States District Judge